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AMENDED IN ASSEMBLY MAY 14, 2012
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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2284

Introduced by Assembly Member Chesbro
(Coauthors: Assembly Members Fong, Halderman, and Huffman)

February 24, 2012

An act to add Section 12025 to the Fish and Game Code, and to add Section 2810.2 to the Vehicle Code, relating to irrigation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2284, as amended, Chesbro. Irrigation.

(1) Existing law establishes fines and penalties for a violation of the Fish and Game Code.

This bill would impose additional civil penalties for a violation of specified provisions of the Fish and Game Code in connection with the production or cultivation of a controlled substance, as defined, on land within the jurisdiction of specified state and federal agencies or within the ownership of a timber preserve zone, at an amount determined by the Fish and Game Commission, as prescribed.

(2) Existing law authorizes a member of the California Highway Patrol to stop any vehicle transporting any timber products, livestock, poultry, farm products, crude oil, petroleum products, or inedible kitchen

grease, and inspect the bills of lading, shipping, or delivery papers, or other evidence to determine whether the driver is in legal possession of the load, and, upon reasonable belief that the driver of the vehicle is not in legal possession, to take custody of the vehicle and load and turn them over to the custody of the sheriff of the county in which any of those items are apprehended. Existing law also generally prohibits a person from driving a motor vehicle upon a highway, unless the person then holds a valid driver's license.

This bill would authorize a member of the California Highway Patrol or the sheriff or a deputy sheriff to stop a vehicle transporting agricultural irrigation supplies, as defined, that are in plain view on a rock or unpaved road within the jurisdiction of specified state or federal agencies or within the ownership of a timber preserve zone and inspect the bills of lading, shipping, or delivery papers, or other evidence to determine whether the driver is in legal possession of the load, and, upon reasonable belief that the driver of the vehicle is not in legal possession, to take custody of the vehicle and load and turn them over to the custody of the sheriff of the county in which any of those items are apprehended. The bill would, except as specified, prohibit a peace officer from impounding a vehicle at a traffic stop made pursuant to this authorization if the driver's only offense is a violation of the prohibition against driving a motor vehicle upon a highway without holding a valid driver's license. The bill would require a peace officer making the stop who encounters a driver in violation of this prohibition to take certain actions with regard to obtaining from the registered owner of the vehicle authorization to release the vehicle to a licensed driver.

Because the sheriff and deputy sheriff would be required to receive and provide for the care and safekeeping of the seized agricultural irrigation supplies and to take certain actions regarding a vehicle driven by a person without a valid driver's license that is stopped as provided above, this bill would impose a state-mandated local program.

(3) The bill would declare the intent of the Legislature that the implementation of the bill's provisions not contradict the purposes or application of the Compassionate Use Act of 1996.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) As a result of the closure and lack of staffing at numerous
4 state parks, those parks and other resource lands have become
5 infested with illegal marijuana cultivation.

6 (b) The illegal marijuana growing sites create a hazard for those
7 who recreate on these public resource lands. Some of the most
8 recent events that showed the relative danger was the murder of
9 Fort Bragg City Council Member Jere Melo who surveyed the
10 forest for illegal marijuana growth in connection with local law
11 enforcement and was killed in the course of his job.

12 (c) The marijuana growsites often are constructed without regard
13 for the environment or wildlife.

14 (d) Because the illegal marijuana cultivation operations are set
15 up deep in resource land, all the equipment is brought in and
16 constructed without consideration for the environmental effects.

17 (e) Many illegal marijuana growsites include water diversion
18 with irrigation pipes, generators, and batteries to power the
19 cultivation equipment and camp, illegal damming and water
20 diversion, and pesticides and insecticides that are sometimes added
21 directly to streams and ponds.

22 (f) *Illegal water diversion for the purpose of cultivating*
23 *marijuana poses a direct threat to California's endangered coho*
24 *salmon. The Legislature finds that in order to prevent their*
25 *extinction from northern California waters, it is imperative that*
26 *habitat restoration occurs. It is the intent of the Legislature to*
27 *have local jurisdictions, where applicable, utilize a portion of the*
28 *funds from the clean-up and abatement funds collected pursuant*
29 *to this act to address coho salmon habitat and recovery.*

30 SEC. 2. Section 12025 is added to the Fish and Game Code,
31 to read:

32 12025. (a) In addition to any penalties imposed by any other
33 law, a person found to have violated Section 1602, 5650, or 5652

1 in connection with the production or cultivation of a controlled
2 substance on land within the respective jurisdiction of the
3 Department of Parks and Recreation, the Department of Fish and
4 Game, the Department of Forestry and Fire Protection, the United
5 States Forest Service, or the Bureau of Land Management, or
6 within the respective ownership of a timberland preserve zone, as
7 defined in Section 51110 of the Government Code, of more than
8 50,000 acres, shall be liable for a civil penalty in the following
9 amounts:

10 (1) A person who violates Section 1602 in connection with the
11 production or cultivation of a controlled substance is subject to a
12 civil penalty of not more than ten thousand dollars (\$10,000) for
13 each violation.

14 (2) A person who violates Section 5650 in connection with the
15 production or cultivation of a controlled substance is subject to a
16 civil penalty of not more than forty thousand dollars (\$40,000) for
17 each violation.

18 (3) A person who violates Section 5652 in connection with the
19 production or cultivation of a controlled substance is subject to a
20 civil penalty of not more than forty thousand dollars (\$40,000) for
21 each violation.

22 (b) The civil penalty imposed for each separate violation
23 pursuant to this section is in addition to any other civil penalty
24 imposed for another violation of this section, or any violation of
25 any other law.

26 (c) All civil penalties collected for a separate violation pursuant
27 to this section shall not be considered to be fines or forfeitures, as
28 described in Section 13003, and shall be apportioned in the
29 following manner:

30 (1) Thirty percent shall be distributed to the county in which
31 the violation was committed pursuant to Section 13003. The county
32 board of supervisors shall first use any revenues from those
33 penalties to reimburse the costs incurred by the district attorney
34 or city attorney in investigating and prosecuting the violation.

35 (2) Thirty percent shall be distributed to the investigating agency
36 to be used to reimburse the cost of any investigation directly related
37 to the violations described in this section.

38 (3) Forty percent shall be distributed to the agency performing
39 the cleanup or abatement of the cultivation or production site for

1 the reimbursement for all reasonable costs associated with the
2 cleanup or abatement.

3 (d) For the purposes of this section, “controlled substance” has
4 the same meaning as defined in Section 11007 of the Health and
5 Safety Code.

6 SEC. 3. Section 2810.2 is added to the Vehicle Code, to read:

7 2810.2. (a) (1) A member of the California Highway Patrol,
8 a sheriff, or a deputy sheriff may stop any vehicle transporting
9 agricultural irrigation supplies that are in plain view to inspect the
10 bills of lading, shipping, or delivery papers, or other evidence to
11 determine whether the driver is in legal possession of the load, if
12 the vehicle is on a rock road or unpaved road as follows:

13 (A) Located within the respective jurisdiction of the Department
14 of Parks and Recreation, the Department of Fish and Game, the
15 Department of Forestry and Fire Protection, the United States
16 Forest Service, or the Bureau of Land Management.

17 (B) Located within the respective ownership of a timberland
18 preserve zone, as defined in Section 51104 of the Government
19 Code, either that is larger than 50,000 acres or for which the owner
20 has given express written permission for a vehicle to be stopped
21 within that zone pursuant to this section.

22 (2) Upon reasonable belief that the driver of the vehicle is not
23 in legal possession, the law enforcement officer specified in
24 paragraph (1) shall take custody of the vehicle and load and turn
25 them over to the custody of the sheriff of the county where the
26 agricultural irrigation supplies are apprehended.

27 (b) The sheriff shall receive and provide for the care and
28 safekeeping of the apprehended agricultural irrigation supplies
29 that were in plain view within the boundaries of a state park, state
30 forest, or federal forest, or on timberland, and immediately, in
31 cooperation with the department, proceed with an investigation
32 and its legal disposition.

33 (c) Any expense incurred by the sheriff in the performance of
34 his or her duties under this section shall be a legal charge against
35 the county.

36 (d) Except as provided in subdivision (e), a peace officer shall
37 not cause the impoundment of a vehicle at a traffic stop made
38 pursuant to subdivision (a) if the driver’s only offense is a violation
39 of Section 12500.

(e) During the conduct of pulling a driver over in accordance with subdivision (a), if the peace officer encounters a driver who is in violation of Section 12500, the peace officer shall make a reasonable attempt to identify the registered owner of the vehicle. If the registered owner is present, or the peace officer is able to identify the registered owner and obtain the registered owner's authorization to release the motor vehicle to a licensed driver during the vehicle stop, the vehicle shall be released to either the registered owner of the vehicle if he or she is a licensed driver or to the licensed driver authorized by the registered owner of the vehicle. If a notice to appear is issued, the name and the driver's license number of the licensed driver to whom the vehicle was released pursuant to this subdivision shall be listed on the officer's copy of the notice to appear issued to the unlicensed driver. When a vehicle cannot be released, the vehicle shall be removed pursuant to subdivision (p) of Section 22651, whether a notice to appear has been issued or not.

(f) For the purposes of this section, "agricultural irrigation supplies" include agricultural irrigation water bladder and drip irrigation tubing.

SEC. 4. It is the intent of the Legislature that the implementation of Section 12025 of the Fish and Game Code and Section 2810.2 of the Vehicle Code, as added by this act and hereafter amended, not contradict the purposes or application of the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code).

SEC. 5. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.